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EXTRAORDINARY

PART II—Section 2

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LOK SABHA

The following Bill was introduced in Lok Sabha on the 10th December, 1956:—

(BILL No. 85 OF 1956)

A Bill to provide for the removal of disqualifications for membership of, and voting at elections to, Parliament and State Legislatures, and for certain miscellaneous matters in connection with such elections.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

1. This Act may be called the Representation of the People (Miscellaneous Provisions) Act, 1956. Short title.

5 2. (1) Every disqualification for membership of Parliament or of the Legislature of a State incurred by any person under the Representation of the People Act, 1951 (hereinafter referred to as the principal Act) before the commencement of the Representation of the People (Second Amendment) Act, 1956, for failure to lodge a
43 of 1951. Removal of disqualifications.
27 of 1956. return of election expenses as required by clause (c) of section 7 of
10 the principal Act is hereby removed.

(2) Every disqualification for membership of Parliament or of the Legislature of a State or for voting at an election incurred by any person under the principal Act before the commencement of the
15 Representation of the People (Second Amendment) Act, 1956, for any illegal practice or for any corrupt practice other than the corrupt practice of bribery or undue influence is hereby removed.

Amendment
of section 7.

3. In section 7 of the principal Act, in clause (e), for the words "any corporation in which the appropriate Government has any share or financial interest", the words and brackets "any company or corporation (other than a co-operative society) in the capital of which the appropriate Government has not less than twenty-five per cent. share" shall be substituted. 5

Special pro-
vision for
nomination
in case of
prisoners in
Portuguese
territory.

4. Notwithstanding anything contained in section 33 of the principal Act, where a person detained in prison or other custody in any Portuguese territory wishes to stand as a candidate at any election that may be held within one year from the commencement of this Act, the nomination paper of such person and any declaration contained therein may be signed on his behalf by the proposer; but no such nomination paper shall be received by the returning officer unless at the time of its delivery the proposer produces before that officer--- 10 15

(a) a writing signed by such person and showing his intention to stand as a candidate, and

(b) a certificate signed by a Secretary to the Government of India in the Ministry of External Affairs that the person is detained in prison or other custody in Portuguese territory. 20

Prevention of
disqualifica-
tion for
membership
of Parliament
in certain
cases.

5. It is hereby declared that the office of member of the Council of Advisers associated with the Chief Commissioner of Manipur or with the Chief Commissioner of Tripura shall not disqualify the holder thereof for being chosen as, or for being, a member of Parliament. 25

STATEMENT OF OBJECTS AND REASONS

While section 74(2) of the Representation of the People (Second Amendment) Act, 1956, removes the disqualification for voting at an election incurred by any person under the repealed section 143 of the Representation of the People Act, 1951, for default in making a return of election expenses, no provision was made in the amending Act for the removal of disqualification for membership incurred by that person under section 7(c) of the principal Act for the same default. The last mentioned section was amended reducing the maximum period of disqualification from five years to three years and the provisions relating to returns of election expenses were also considerably modified in their scope by the amending Act. Despite this provision the disqualification for membership previously incurred under section 7(c) of the principal Act might, on a strict view of the law, be held to continue for the full period unless in any particular case it is reduced by the Election Commission. Since the number of such persons is reported to be over 6,000, it is proposed that their disqualification for membership of Parliament or of a State Legislature should be removed by an express statutory provision.

The amending Act has done away with minor corrupt practices and illegal practices by repealing sections 124 and 125 of the principal Act and has also cut down the number, and reduced the scope, of the corrupt practices mentioned in section 123 thereof. Section 72(2) of the amending Act further provided that any disqualification for membership entailed by any act which has ceased to be a corrupt or illegal practice under the principal Act, as amended, shall stand removed. The application of this general provision to concrete cases might lead to doubts and disputes which it seems desirable to avoid. It is therefore proposed to make an express legal provision that every disqualification for membership or for voting incurred by any person for an illegal practice or for a corrupt practice other than that of bribery or undue influence shall stand removed.

Section 7(e) of the principal Act disqualifies for membership any person who is a director or managing agent of, or holds an office of profit under, any corporation in which the appropriate Government has any share or financial interest. The wide wording of this section, and in particular the reference to financial interest of Government, has led to unforeseen difficulties. It can be argued that all local authorities, including even the District Councils established by the Sixth Schedule to the Constitution for the Autonomous Districts of Assam, and co-operative societies are corporations in which the Government has a financial interest. It is doubtful whether this

result was intended. It is, therefore, proposed in clause 3 of the Bill to restrict the scope to section 7(e) of the Act to companies and corporations, other than co-operative societies, in the capital of which the Government has not less than 25 per cent. share.

In clause 4 of the Bill, it is proposed to make a special provision to enable Indian citizens imprisoned in Portuguese territory to stand as candidates in the forthcoming general elections. If any of them wishes to stand for election, it might not be possible for him to comply with the essential requirement of signing the nomination paper as provided in section 33 of the principal Act within the time allowed for the purpose. It is therefore proposed that in such a case the nomination paper may be signed on behalf of the candidate by his proposer, provided the proposer has obtained the consent in writing of the candidate and a certificate signed by a Secretary to the Government of India in the Ministry of External Affairs that the candidate is detained in prison or other custody in Portuguese territory.

The members of the Councils of Advisers for Manipur and Tripura hold offices of profit under the Government of India and are therefore disqualified for election to Parliament under article 102(1)(a) of the Constitution. It is considered desirable that these offices should be declared by law not to disqualify their holders for being chosen as members of Parliament.

H. V. PATASKAR.

NEW DELHI;

The 7th December, 1956.

M. N. KAUL,
Secretary.